

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1001 be amended to read as follows:

- 1 Page 62, line 10, after "(IC 6-7-1);" insert "**a local sales tax**
- 2 **(IC 6-10);**".
- 3 Page 64, between lines 41 and 42, begin a new paragraph and insert:
- 4 "SECTION 42. IC 6-10 IS ADDED TO THE INDIANA CODE AS
- 5 A **NEW ARTICLE TO READ AS FOLLOWS** [EFFECTIVE MAY 1,
- 6 2006]:
- 7 **ARTICLE 10. SUPPLEMENTAL LOCAL TAXES**
- 8 **Chapter 1. General Policy; Purpose; Applicability**
- 9 **Sec. 1. This article applies to all counties.**
- 10 **Sec. 2. Taxes imposed under this article are in addition to any**
- 11 **other taxes imposed by law.**
- 12 **Chapter 2. Definitions**
- 13 **Sec. 1. The definitions in IC 6-1.1, IC 6-2.5, IC 6-11, IC 36-1-2,**
- 14 **and this chapter apply throughout this article.**
- 15 **Sec. 2. "Adopt" includes amend and repeal.**
- 16 **Sec. 3. "Adopting entity" means a county fiscal body.**
- 17 **Sec. 4. "Bonds" has the meaning set forth in IC 5-1-11-1.**
- 18 **Sec. 5. "Department" means the department of state revenue.**
- 19 **Sec. 6. "Fund" refers to a supplemental tax revenues fund**
- 20 **established under IC 6-10-5-1.**
- 21 **Sec. 7. "Governing body" has the meaning set forth in**
- 22 **IC 6-1.1-21.2-6.**
- 23 **Sec. 8. "Property tax replacement account" refers to a property**
- 24 **tax replacement account established in a fund.**
- 25 **Sec. 9. "Supplemental tax revenues" refers to the revenues from**
- 26 **a local sales tax adopted under this article.**
- 27 **Sec. 10. "Tax increment revenues" has the meaning set forth in**
- 28 **IC 6-1.1-21.2-10.**
- 29 **Sec. 11. "Taxing unit" has the meaning set forth in**
- 30 **IC 6-1.1-1-21.**

Chapter 3. Local Sales Taxes

Sec. 1. (a) The adopting entity of a county may adopt an ordinance to impose an excise tax known as the county's local sales tax on transactions described in section 2 of this chapter in the county.

(b) The adopting entity that adopts the ordinance shall provide a certified copy of the ordinance to the following:

(1) The department.

(2) The department of local government finance.

(3) The budget agency.

(c) The ordinance takes effect on the first day of the month specified in the ordinance. However, the effective date may not be earlier than the first day of the month that follows, by at least forty-five (45) days, the month the ordinance is adopted.

Sec. 2. A local sales tax imposed under this chapter applies to any transaction on which the state gross retail tax is imposed under IC 6-2.5 and that occurs in the county imposing the tax.

Sec. 3. The local sales tax rate adopted in a county may be one-tenth of one percent (0.1%).

Sec. 4. (a) If a taxing unit has outstanding bonds, leases, obligations, or other evidences of indebtedness, that are payable from a local sales tax imposed under this chapter, the tax may not be repealed or decreased below a rate that would produce one and twenty-five hundredths (1.25) times the total of the highest annual payment requirements due from the local sales tax on those bonds, leases, obligations, or other evidences of indebtedness, to their final maturity.

(b) For purposes of subsection (a), the determination of a tax rate sufficient to produce one and twenty-five hundredths (1.25) times the total of the highest annual payment requirements shall be based on an average of the immediately preceding three (3) years collections for the local sales tax, if the tax has been imposed for the immediately preceding three (3) years. If the local sales tax has not been imposed for the immediately preceding three (3) years, the tax may not be reduced below a rate that would produce one and twenty-five hundredths (1.25) times the total of the highest annual payment requirements due from local sales tax on those bonds, leases, obligations, or other evidences of indebtedness, based on a study by a qualified accountant or financial adviser.

(c) If no bonds, leases, obligations, or other evidences of indebtedness of a taxing unit are outstanding that are payable from a local sales tax imposed under this chapter, the tax may be repealed or the rate reduced at the discretion of the adopting entity.

Sec. 5. Revenue from a local sales tax under this chapter shall be collected, deposited, and used as provided in IC 6-10-5.

Chapter 4. Collection Procedures for Local Sales Taxes

Sec. 1. A local sales tax imposed under IC 6-10-3 shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return that is filed for the payment of the tax may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax as prescribed by the department.

Sec. 2. A local sales tax imposed under IC 6-10-3 is a listed tax for purposes of IC 6-8.1.

Sec. 3. (a) If a county has imposed a local sales tax under IC 6-10-3, the department shall notify the county fiscal officer of the amount of tax paid in the county.

(b) The amounts received from a local sales tax imposed under IC 6-10-3 shall be paid monthly by the treasurer of state on warrants issued by the auditor of state to the fiscal officer of the county that imposed the tax.

Chapter 5. Use of Supplemental Tax Revenues

Sec. 1. A supplemental tax revenues fund is established in each county that is entitled to a distribution of supplemental tax revenues under this article. A fund shall be administered by the county fiscal officer.

Sec. 2. A county fiscal officer shall maintain a property tax replacement account in the fund.

Sec. 3. One hundred percent (100%) of the supplemental tax revenue distributed to the county from any of the tax imposed under this article shall be deposited in the property tax replacement account.

Sec. 4. Any interest earned on the balance in the fund shall be deposited in the property tax replacement account.

Sec. 5. Money in a property tax replacement account may be used to:

- (1)** Replace revenue lost from the granting of a property tax replacement credit under section 6 of this chapter.
- (2)** Reduce the amount of the annual controlled tax increase that must be imposed under IC 6-11.

Sec. 6. (a) This section applies if the adopting body's ordinance provides for a property tax replacement credit in the county.

(b) An ad valorem property taxpayer in the county is eligible for a property tax replacement credit in any year in which a supplemental tax revenue will be distributed to the county. However, if the tax from which the supplemental tax revenue is derived is imposed after January 31 of the year in which the initial distribution is received, an ad valorem property taxpayer is first eligible for a property tax replacement credit in the year immediately following the year in which the tax is imposed.

(c) The department of local government finance, after reviewing the recommendation of the budget agency, shall set the percentage of the property tax replacement credit so that the total amount of additional property tax replacement credits granted in a county equals the amount of the supplemental tax revenues that the department of local government finance estimates will be deposited in the county's property tax replacement account in the year after deducting any amount needed to comply with section 10 of this chapter. The additional property tax replacement credit shall be uniformly applied either to:

(1) all controlled property taxes and excluded property taxes imposed on each taxpayer's property in the county; or

(2) only all controlled property taxes imposed on each taxpayer's property in the county;

as determined under the adopting body's ordinance.

(d) The department of local government finance shall certify the property tax replacement credit percentage to the county fiscal officer of the county on the schedule determined by the department of local government finance.

Sec. 7. (a) Subject to section 10 of this chapter, the county fiscal officer of a county in which a supplemental tax revenues fund is established shall distribute each year from the property tax replacement account an amount equal to the amount of revenue lost to the taxing unit as a result of the substitution of supplemental tax revenues for an income tax under IC 6-11-7 or the granting of the property tax replacement credit under section 6 of this chapter. The balance in the property tax replacement account shall be distributed to taxing units:

(1) in at least two (2) installments each year on the June and December settlement dates under IC 6-1.1-27-1; or

(2) in more frequent installments if a more frequent distribution is specified in an ordinance adopted by the county fiscal body.

(b) If an insufficient balance exists in the property tax replacement account to make in a year all the distributions required by this section, the county fiscal officer shall reduce the distribution to each taxing unit in proportion to the taxes imposed in the county in the year by the taxing unit relative to other taxing units in the county.

(c) If the sum of the balance in the property tax replacement account at the beginning of a year and the amount deposited in the property tax replacement account in a year exceeds the total of the revenue lost in a year as a result of the substitution of supplemental tax revenues for an income tax under IC 6-10-7 or the granting of property tax credits under section 6 of this chapter, the county fiscal officer shall retain the excess amount in the property tax

1 replacement account and use the excess amount to replace revenue
 2 lost as a result of the substitution of supplemental tax revenues for
 3 an income tax under IC 6-11-7 or the granting of an increased
 4 property tax replacement credit computed under this section in a
 5 subsequent year. If a balance remains in a county's property tax
 6 replacement account at the end of any year after making all
 7 required distributions under this section, the department of local
 8 government finance may decrease the county income tax imposed
 9 under IC 6-11-7 or increase in a subsequent year the percentage of
 10 the property tax replacement credit granted in a county under
 11 section 6 of this chapter by the amount of the balance in the
 12 property tax replacement account. Any money in the property tax
 13 replacement account that is not needed to make a distribution to a
 14 taxing unit remains in the account as a reserve and does not revert
 15 to the county's general fund at the end of a year.

16 Sec. 8. (a) Money received by a taxing unit from the property
 17 tax replacement account shall be treated as ad valorem property
 18 taxes for all purposes and shall be apportioned among the funds of
 19 the taxing unit in proportion to the revenue lost by each fund as the
 20 result of the granting of the property tax replacement credit under
 21 section 6 of this chapter.

22 Sec. 9. For the purpose of determining any other credit against
 23 property tax liability granted under IC 6-1.1 or IC 6-3.5, except a
 24 credit granted under IC 6-1.1-20.6, the credit shall be computed as
 25 if no credit had been granted under section 6 of this chapter.

26 Sec. 10. (a) If a governing body has bonds, leases, obligations,
 27 or other evidences of indebtedness:

28 (1) for which the governing body became obligated before
 29 April 1, 2006; and

30 (2) that are payable in whole or in part from tax increment
 31 revenues;

32 the county's fiscal officer must first apply supplemental tax
 33 revenues as provided in subsection (b) to the payment of the bonds,
 34 leases, obligations, or other evidences of indebtedness if the
 35 governing body certifies that, without the application of
 36 supplemental tax revenues, the rights of holders or owners of the
 37 bonds, leases, or other obligations will be impaired or adversely
 38 affected as a result of the substitution of supplemental tax revenues
 39 for an income tax under IC 6-11-7 or the granting of property tax
 40 replacement credits provided for under section 6 of this chapter.

41 (b) The amount needed to comply with this section shall be
 42 deducted:

43 (1) first from the amount that would otherwise be distributed
 44 in the year to civil taxing units from the miscellaneous shares
 45 revenue account; and

46 (2) to the extent that any shortfall exists after applying the

1 **amount described in subdivision (1), from the amount that would**
2 **otherwise be distributed in the year to taxing units from the**
3 **property tax replacement account.".**

4 Renumber all SECTIONS consecutively.

(Reference is to EHB 1001 as printed February 24, 2006.)

Senator ZAKAS